

Forum

The National Planning Policy Framework and Archaeology: A Response – How did the Profession come to this?

Peter Hinton*

Introduction

The transition of planning policy for archaeology and the historic environment in England from Planning Policy Guidance note 16 (PPG 16) to the National Planning Policy Framework (NPPF) via Planning Policy Statement 5 (PPS5) is an important one. It mirrors in some ways the development of the commercial branch of archaeology, and of its professional institute, the Institute for Archaeologists (IfA). In this response I do not seek to reprise or challenge the key policy changes, magisterially summarised by Flatman and Perring, but to explore what they mean and have meant for the sector, how the discipline reacted (or should have reacted), and what it all means for professionalism.

A Quiet Revolution for Research

PPS5 was in its quiet way revolutionary. It replaced PPG 16's (DoE 1990) the challenging idea that 'preservation by record' could 'mitigate' destruction of a site or structure (one of the 'contestable assumptions' alluded to by Flatman and Perring) with the concept

of off-setting damage to or destruction of the fabric of a heritage asset by increasing public understanding of it.

In doing so it shifted the focus of commercial archaeological endeavour from putting detailed descriptions of now defunct deposits or buildings in a shed, along with boxes of finds recovered from it, to one of research. Some of us might think that archaeology – the study of the physical remains of the human past – could not be perceived as anything other than research, but in the competitive struggle to win contracts in the 1990s at least one contracting/consulting organisation used in its promotional literature to clients the phrase: *We do not undertake research with your money.*

What *do* you do then? The message of course was that our service is to discharge your planning condition as cheaply as possible, and that we will not indulge our academic pursuits at your expense. Too often under PPG 16 preservation by record was presented as an exercise in heritage decontamination, with the archival by-products of the process presenting a costly storage problem in perpetuity reminiscent of low-grade nuclear waste. PPS5 changed that (or would have done, had it stuck around long enough for the whole of the sector to get to grips with its implications), leaving no room for what the Southport report describes as 'residual apologist rhetoric' about research (Southport Group 2011, 17).

* Chief Executive,
Institute for Archaeologists SHES,
Whiteknights, University of Reading,
PO Box 227, Reading RG6 6AB,
United Kingdom
peter.hinton@archaeologists.net

Southport and Beyond

Flatman and Perring do not mention the Southport Group, which is surprising in that it resulted from a broad-based sectoral response to PPS5 that set out to transform the values and purpose of planned archaeology – or at least to make sure that good practice developed under PPG 16 became commonplace now that the planning policy framework much more obviously permitted (or demanded) it. There were three pieces of policy velcro in PPS5 on to which sectoral desiderata could be stuck. They related to public benefit, a definition of archaeological interest, and research focus: three issues that I am dealing with in reverse order in this response, of which research has been duly despatched.

Archaeological Interest and the Expert

What then of archaeological interest? Archaeological interest was defined in PPS5 as:

An interest in carrying out an expert investigation at some point in the future into the evidence a heritage asset may hold of past human activity (DCLG 2010, 13).

It's a definition that fits well enough with mine of archaeology in the second paragraph of the 'quiet revolution' section above. It meant, too, that a site with no known archaeological remains could have archaeological interest, a valuable concept permitting where justifiable a legitimate requirement for a developer to commission an investigation in those tantalising blank areas in a Historic Environment Record. That a similar definition of archaeological interest is carried forward in the NPPF (DCLG 2012, 50) is a major triumph, though it was a close-run thing and involved personal intervention by a friend of archaeology in government.

'Expert' is a useful word. It implies – and is interpreted by IfA as requiring – that archaeological investigation should be conducted by someone who is competent to do so, and has been accredited as possessing that com-

petence. This should not trouble us as much as it seems to – it is only those that do not understand competition law who raise the spectre of serious legal challenge – and is anyway written into Article 3 of the Valletta convention (Council of Europe 1992):

- To preserve the archaeological heritage and guarantee the scientific significance of archaeological research work each party undertakes
- to apply procedures for the authorisation and supervision of excavation and other archaeological activities in such a way as
- to prevent any illicit damage or removal of elements of the archaeological heritage
- to ensure that excavations and prospecting are undertaken in a scientific manner
- to ensure that excavations and other potentially destructive techniques are carried out only by qualified, specially authorised persons'

Professionalism and Barriers to Entry

Having snuck a definition of archaeology under readers' radar earlier on this paper with sufficient subtlety to avoid appearing patronising (I hope), this being a professional archaeology forum I feel the need to set out a definition of professionalism here – not least because many archaeologists seem to think it's got something to do with being paid. A profession is *an occupation in which skilled practitioners undertake their duties impartially, according to a code of ethics, and are subject to the oversight of their fellow practitioners*. The code of ethics (eg, for archaeologists, IfA's *Code of conduct* (IfA 2011)) is critical because it sets out rules of behaviour that are far more demanding than legislation and the market require. As Lord Benson listed in his requirements to be considered a profession (Hansard (Lords) 8 July 1992, 1206-1207):

The governing body [of a professional body] must set the ethical rules and professional standards that are to

be observed by the members. They should be higher than those established by the general law.

These rules are designed not to protect the professional but the public. That is why professional institutes like IfA should assess applicants for professional membership against standards for both technical and ethical competence. A professional should know when to forbear, and not exploit the asymmetry of information about the nature of the service between him/herself and the client, for example by providing services that the client does not need or from which the public will not benefit. That's how you know a professional. As R H Tawney wrote (Tawney 1921):

The difference between industry and the professions is simple and unmistakable. The essence of the former is that its only criterion is the financial return that it offers to its shareholders. The essence of the latter is that, though men enter it for the sake of livelihood, the measure of their success is the service they perform.

This policy recognises that planning legislation allows the state to interfere with the exercise of an individual's rights (to develop his/her land or property as s/he sees fit), in the interests of the public good (to protect the environment, in this case historic, enjoyed or endured by the many). So if we expect a landowner or developer to commission archaeological research in the name of public interest, we should ensure that the public genuinely benefits from that investment. That means ensuring that the work is undertaken by expert people – professional people – technically competent to undertake the work, ethically competent to distinguish the difference between an industry and a profession and stay on the right side of the fence, and ethically competent to see the importance of finding imaginative, engaging ways of presenting the results of high quality, relevant research to the public many as well as the academic few.

So contra Flatman and Perring's opening paragraph, PPG 16 did not give the profession a clear locus: it merely established an industry – and one that was conducted in a competitive market where minimal, and sometime negative, commercial advantage was secured by professionalism. Government officials understood IfA's arguments why this state of affairs was undesirable, and accepted far more readily than English Heritage IfA's arguments that there was market failure. They saw that the archaeological market exhibited classic symptoms of market failure (SPADA Limited 2009, 9)

- asymmetry of information between service provider and purchaser (encouraging the former to cut quality and latter to secure services at lowest cost)
- credence goods (where the purchaser cannot assess the quality of the product before commissioning because the end benefit emerges long after the commissioning)
- externalities (where the operation of the market between provider and purchaser impacts on third parties – in this case the public which too often saw little or no benefit from the contract)

and they recognised the need for government to intervene. That is why there is that little bit of velcro, 'expert' in PPS5 (and in NPPF). Scottish Planning Advice Note 2/2011 (Scottish Government 2011, para 26) states that:

[archaeological] Recording should be undertaken by a professionally competent archaeological organisation or consultant, whose work should meet the Institute for Archaeologists (IfA) Standards and guidance for archaeological excavation and archaeological investigation and recording of standing buildings and structures.

It states elsewhere that IfA is the accrediting body for archaeological practices and individual archaeologists – there is still room for England to catch up with the confidence and clarity of this statement.

For a fuller discussion of the need for barriers to entry to professional practice, and how Porter's Five Forces model works for the archaeological contracting market, see Hinton and Jennings 2007.

Enter the Framework

And then, as Flatman and Perring describe, along came the NPPF. Its origins were intensely political. The Open Source Planning green paper (Conservative Party 2010), while about planning, set out the stall for localism, the empowerment of communities to control public services and to shape their environment. It heralded the Localism Act (DCLG 2011), which might be considered to be less about localism and more about deregulation of the planning process and the extension of permitted development rights under Neighbourhood Development Orders. And to support the Localism Act there was the NPPF.

Its genesis involved a novel approach to policy formulation, insightfully reviewed by the Institute for Government (2012) and two public consultation drafts, of which at least the first was light on planning and more concerned with development control (or the reduction of it in the interests of economic growth). Heavy-handed Treasury intervention at a late stage of preparation of the second public draft (the first to which government acknowledged ownership) triggered an outcry, notably from the National Trust. It might be assumed that government knew that the document would be controversial in historic environment circles from the fact that DCLG solicited an IfA soundbite (albeit somewhat non-committal) for its press release for the launch of the second consultation.

While it took the big guns of the National Trust a while to find their range, it was an extraordinarily helpful campaign for archaeologists, because under the covering artillery barrage between Trust and government IfA and others in the sector were able to negotiate some very significant technical improve-

ments to the draft Framework with government officials, who were far more receptive to our representations than they might otherwise have been. Technical improvements maybe, but they made the difference between the continuation of developer-funded archaeology for non-designated heritage assets and its demise. Should there be any doubt, that provision is secured by paragraph 135 (and through the inclusive definition of Heritage Assets in the glossary) of the NPPF.

And research, via the archaeological interest definition so hard fought for, remains strongly in there, for all that, as Flatman and Perring set out, the first consideration is conservation of the resource (as it is in the IfA *Code of conduct*).

There is one other big gain in the NPPF, which seems to have been overlooked by archaeologists. By putting all government's planning guidance in a single document, the historic environment and its study through archaeology sits right alongside the natural environment. Everybody has to read about it, and neither element of environmental management is given precedence. This may well have been the policy position before, but this is the first time historic environment and natural environment have shared equal profile in a government document. The significance of this should not be underestimated.

The Future Application of the Framework

Flatman and Perring are right that key factors for the implementation of the Framework are the resources provided by and to local planning authorities and the playing out of some of the potential contradictions of localism and deregulation. And will neighbourliness extend to consideration of the views of those just outside the designated neighbourhood?

While to a certain extent we may have to sit and watch that second debate, there is no excuse not to get involved in lobbying for the

continuation of local authority historic environment services. Advocacy by the sector – by many bodies, not just IfA – has secured some small victories, but has failed to prevent the closure of some services in spite of the fact that their demise leaves the planning authorities delinquent of their responsibilities under NPPF.

But there's also a more general challenge to professional archaeologists. The NPPF, like PPS5, presents at the very least opportunities and quite possibly demands for archaeologists to become more professional in their outlook, to operate market barriers where quality service providers and projects are not priced out of the market, and where the demands of the public are met with the same enthusiasm as the requirements of the more immediate client, the developer.

As with any policy document, the NPPF is open to interpretation. PPS5 may have gone, but its practice guide (English Heritage 2010) is still current. We still need it, but we need a replacement as quickly as possible, for the NPPF is highly compressed and no easier to understand for it. The practice guide is alright, but it missed a lot of opportunities subsequently identified by the Southport Group. Essentially it sets out what was considered archaeological good practice under PPG 16, but it never got to grips with archaeology as it could have been under PPS5. An NPPF guide exists in draft, and while it might be considered conservative and cautious in its approach to archaeology, it would provide an invaluable explanation of the rules of engagement under the Framework. A consultation draft will emerge soon.

Interpretation, precedent and rhetoric are all important. *I* know what *I* want the NPPF to mean, and I hope others do too. Quite honestly, if we keep saying that it corrects a failing market and insists upon higher quality research and outputs, and we are smart about seeing off challenges, then these things will happen.

Acknowledgements

No-one but me is to blame for this response, but others should be acknowledged for their role in what this article describes. At DCMS, Harry Reeves 'got' the need to intervene in market failure. At English Heritage, Roger M Thomas persuaded colleagues to move from mitigation to offsetting, and Mike Harlow and Duncan McCallum fought a great fight to create and defend 'archaeological interest'. Mike Heyworth and Gill Chitty of CBA and Stewart Bryant and Dave Barrett of ALGAO England were great allies in the long campaigns to get the implications of wording understood by non-archaeologists. John Howell MP managed his responsibilities to government and his commitment to archaeology with openness and integrity. Taryn Nixon of Museum of London Archaeology had the vision and leadership to rally the Southport Group. And at IfA, successive Hon Chairs Mike Dawson and Gerry Wait provided support and occasional tempering when panic started to set in; and IfA's policy advisor Tim Howard, twenty years a planning lawyer and fifty years a Yorkshireman, ensured that we never put a legislative and policy foot wrong and kept pragmatically focused on the winnable.

References

- Conservative Party** 2010 *Open source planning, Policy Green Paper 14*. London: Conservative Party. http://www.conservatives.com/News/News_stories/2010/02/~media/Files/Green%20Papers/planning-green-paper.ashx (Accessed on 30th October 2012).
- Council of Europe** 1992 *European convention on the protection of the archaeological heritage (revised)*, Brussels. <http://conventions.coe.int/Treaty/en/Treaties/Html/143.htm> (Accessed on 30th October 2012).
- DCLG** 2010 *Planning Policy Statement No. 5: Planning for the Historic Environment*. London: HMSO. <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1514132.pdf>
- DCLG** 2011 *The Localism Act*. London: HMSO. <http://www.legislation.gov.uk/ukpga/>

- 2011/20/contents/enacted (Accessed on 30th October 2012).
- DCLG** 2012 *National Planning Policy Framework*. London: HMSO. <http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>
- DoE** 1990 *Planning Policy Guidance Note 16: Archaeology and Planning*. London: HMSO. <http://www.communities.gov.uk/documents/planningandbuilding/pdf/156777.pdf>
- English Heritage** 2010 *PPS 5 Planning for the Historic Environment: Historic Environment Planning Practice Guide*. London; English Heritage. <http://www.english-heritage.org.uk/content/publications/publication-sNew/guidelines-standards/pps-practice-guide/pps5practiceguide.pdf>
- Hinton, P and Jennings, D** 2007 Quality Management of Archaeology in Great Britain: Present Practice and Future Challenges. In: Willems, W and van den Dries, M (eds.) *Quality Management in Archaeology* Oxford: Oxbow Books.
- IfA** 2012 *Code of Conduct*. Reading: IfA http://www.archaeologists.net/sites/default/files/node-files/code_conduct.pdf
- Institute for Government** 2012 *Opening up policy making: a case study of the National Planning Policy Framework and other models of more open policy making*. http://www.instituteforgovernment.org.uk/sites/default/files/publications/opening_up%20policy%20making_final.pdf
- Scottish Government** 2011 *Planning Advice Note PAN 2/2011: Planning and archaeology*. <http://www.scotland.gov.uk/Resource/Doc/355385/0120020.pdf>
- Southport Group** 2011 *Realising the benefits of planning-led investigation in the historic environment: a framework for delivery*. <http://www.archaeologists.net/sites/default/files/node-files/SouthportreportA4.pdf>
- SPADA Limited** 2009 *British Professions Today: The State of the Sector*. Sponsored by RICS, the Law Society and CIMA, available at www.spada.co.uk
- Tawney R H** 1921 *The Acquisitive Society* <http://gutenberg.org/ebooks/33741>